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15 December 1953

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CONFLICTS OF INTEREST

1. Historically, there has been a strong objection to employees of the Government who leave the Government's service acting in such a manner as to prosecute claims against the Government, particularly in a matter with which they were formerly connected as employees. In 1948 a criminal statute was enacted restating earlier statutes on this matter and providing for a fine of not more than \$10,000 or imprisonment for not more than one year, or both, for violation of this conflict-of-interest principle.

2. Recently, the Attorney General has addressed a memorandum to all United States Attorneys construing this statement broadly and asserting that violations will be rigidly prosecuted. The wording of the statute and of the Department of Justice memorandum, insofar as the latter is pertinent, is set forth in Attachment A.

3. In order to ensure that both the spirit and the letter of the statute and the Department of Justice memorandum be observed, I want to call the attention of each employee to the fact that conflict-of-interest situations must be avoided. It is the responsibility of every individual to be aware of both the legal and ethical considerations which apply. In addition, all employees are directed to bring to the attention of their supervisors those situations in which conflict-of-interest principles appear to be violated. Continuing preventive action shall always be the responsibility of each supervisor.

4. It is further directed that the Deputy Directors, the Director of Training, and the Assistant Director for Communications report to the Inspector General any situation in which an employee or former employee appears to be representing a private interest with respect to a matter in which confidence had been reposed in him as an employee. Initial reports will be submitted to the Inspector General by 1 February 1954 and thereafter not later than 10 June and 10 December of each year for the six-month periods ending 31 May and 30 November respectively.

5. After reviewing the ethical and policy considerations of cases submitted to him, the Inspector General will refer to the General Counsel any situations which appear to violate the appropriate statutes, as interpreted by the Attorney General.

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ORIG COMP		ORI	32	TYPE	01
ORIG CLASS	4	REV CLASS	4		
JUST		NEXT REV			

W. DULLES

Attachment

DISTRIBUTION: All Employees

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284 OF TITLE 18 OF THE UNITED STATES CODE,
CRIMES AND CRIMINAL PROCEDURE

1. Section 284 of Title 18 of the United States Code, as enacted into positive law by the Act of June 25, 1948, c. 645, 62 Stat. 698, as amended, provides:

"Disqualifications of former officers and employees in matters connected with former duties.

"Whoever, having been employed in any agency of the United States, including commissioned officers assigned to duty in such agency, within two years after the time when such employment or service has ceased, prosecutes or acts as counsel, attorney, or agent for prosecuting, any claims against the United States involving any subject matter directly connected with which such person was so employed or performed duty, shall be fined not more than \$10,000 or imprisoned not more than one year, or both."

2. Department of Justice Memorandum No. 40, dated August 27, 1953, addressed to all United States Attorneys provides, in pertinent part, as follows:

"The Department believes that in order to effectuate the evident and obvious purpose of the statute, Section 284 must be given an inclusive construction. A reading of the statute clearly indicates that it was designed to maintain and insure honesty and integrity on the part of officers and employees of the Government in the performance of their official duties to the end that they be removed from temptation by prohibiting them for a period of two years at least from representing the opposing party involving any subject matter directly connected with which such person was so employed or performed duty.

"Manifestly it is improper, and not in the interest of good Government, for a public employee who has handled a matter for the Government to leave public service and subsequently represent the other side, just as it is improper for an attorney in private practice to accept employment in matters adversely affecting any interest of a former client with respect to which confidence has been reposed. This principle is self-evident as to all matters in which the Government has an interest, and about which the former employee acquired knowledge or took action in connection with his official duties. There is no distinction in this respect between monetary claims and nonmonetary claims, or between claims by moving parties and defensive ones. Such conduct should be considered illegal as well as unethical in all cases.

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"Accordingly, it is the position of the Department that the statute prohibits any former employee of the Federal Government, for a period of two years after leaving Government service, from representing any non-governmental interest in any matter whatsoever, 'involving any subject matter directly connected with which such person was so employed or performed duty,' in which the United States is interested directly or indirectly, whether as a party, as an enforcement agent, or otherwise."

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